

**O-442-20**

**TRADE MARKS ACT 1994  
IN THE MATTER OF  
TRADE MARK APPLICATION NO 3392748  
BY FRUITFINA LIMITED  
TO REGISTER**

**KARMA**

**AS A TRADE MARK  
IN CLASS 33  
AND OPPOSITION THERETO (UNDER NO. 417106)  
BY  
BIOGROUPE**

## Background & pleadings

1. Fruitfina Limited (“the applicant”) applied to register the trade mark KARMA on 16 April 2019. It was published in the Trade Mark Journal on 26 April 2019 in classes 32 and 33. The applicant subsequently deleted class 32 from the application by means of a Form TM21b dated 19 September 2019. The application currently stands in class 33 only for the following goods: *Alcoholic beverages (except beers)*.

2. Biogroupe (“the opponent”) opposed the application on 23 July 2019 under section 5(2)(b) of the Trade Mark Act 1994 (“the Act”) based on two earlier marks, one a UK trade mark and the other an EU trade mark. The opposition is only based on some of the goods for which the earlier marks are registered. The relevant details are set out below.

UK TM 3044869	EU TM 14682132
	
<p>Filing date: 3 March 2014            Registration date: 15 August 2014</p> <p><u>Goods relied on:</u>            Class 30: Coffee; tea; sugar; artificial coffee; preparations made from cereals; honey; yeast; vinegar.</p> <p>Class 32: Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.</p>	<p>Filing date: 14 October 2015            Registration date: 24 February 2016</p> <p><u>Goods relied on:</u>            Class 30: Coffee; tea; sugar; artificial coffee; preparations made from cereals; honey; yeast; vinegar.</p> <p>Class 32: Beers; mineral and aerated waters and other non-alcoholic beverages; fruit beverages and fruit juices; syrups and other preparations for making beverages.</p>

3. The opponent's trade marks are earlier marks, in accordance with section 6 of the Act, but as neither mark has been registered for five years or more before the filing date of the application, they are not subject to the proof of use requirements, as per section 6A of the Act.

4. The applicant filed a counterstatement in which it denied the claims made by the opponent.

5. The parties are both represented, the applicant by IP Lab Limited and the opponent by Maguire Boss. Both parties filed evidence and written submissions in lieu of a hearing. I make this decision from the material before me.

### **Evidence**

6. The opponent provided evidence in the form of a witness statement in the name of Sylvie Tate, of Maguire Boss (the opponent's legal representative). Ms Tate annexed 25 exhibits. I do not intend to summarise the exhibits individually. Suffice to say here the exhibits consist of examples of alcoholic kombucha products, a dictionary definition of 'karma', a copy of the EU IPO goods comparison table for classes 32 and 33 and several EU IPO decisions relating to other 'karma' trade mark disputes.

7. The applicant provided evidence in the form of a witness statement in the name of David Evans, of IP Lab Limited (the applicant's legal representative). Mr Evans annexed 7 exhibits which consist of images of the opponent's 'Karma' branded soft drinks range, a map of outlets in the London area who stock the opponent's goods and an email between the parties dated 2011.

8. I have considered the evidence provided and would make the following points. I note that the kombucha beverage can have alcoholic and non-alcoholic variants. With reference to the EU IPO decisions, I would say that I am not bound by these decisions and must make my own determination based on the merits of the case before me. On that point, I find that the 2011 email referred to in Mr Evans's evidence does not assist me as it refers to a separate EU TM application and to class 32 goods which do not form part of the current application.

## Decision

9. Section 5(2)(b) of the Act is as follows:

“5(2) A trade mark shall not be registered if because-

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.

10. The leading authorities which guide me are from the Court of Justice of the European Union ('CJEU'): *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P.

### The principles

(a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;

(k) if the association between the marks creates a risk that the public will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

## Comparison of goods

11. In the judgment of the CJEU in *Canon*, Case C-39/97, the court stated at paragraph 23 of its judgment that:

“In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their intended purpose and their method of use and whether they are in competition with each other or are complementary”.

12. The relevant factors identified by Jacob J. (as he then was) in the *Treat* case, [1996] R.P.C. 281, for assessing similarity were:

- (a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be, found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;
- (f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.

13. The goods to be compared are set out below. To avoid repetition and as the opponent's relied on goods in class 30 are identical in the two earlier rights and the

class 32 differs only between the words 'drinks' and 'beverages', I have taken the specification from EU TM No. 14682132 for ease of reference.

Opponent's goods	Applicant's goods
<p>Class 30: Coffee; tea; sugar; artificial coffee; preparations made from cereals; honey; yeast; vinegar.</p> <p>Class 32: Beers; mineral and aerated waters and other non-alcoholic beverages; fruit beverages and fruit juices; syrups and other preparations for making beverages.</p>	<p>Class 33: Alcoholic beverages (except beers)</p>

14. The opponent has made no submissions as to why it believes its class 30 goods are similar to the applicant's goods. I have considered the class 30 goods and find them to be dissimilar. Their nature, purpose and methods of use are different from the applicant's goods. The users are different and would be age restricted for alcoholic goods. The goods are not in competition with each other and whilst there may be an overlap in some distribution channels, for example a supermarket premises, the goods will be in separate areas.

15. Turning to the remaining class, I find the opponent's *beers* to be similar to the applicant's *Alcoholic beverages* to a low degree. Although the means of production are different, the goods are all alcoholic beverages and have the same purpose of being an intoxicant. The goods will share the same users, namely those over the age of 18, and have the same distribution channels, i.e. served in pubs, bars and restaurants and will be found together in the same section of a retail premises, albeit that they will be stored on different shelves with clearly marked zones for beers, wines, sprits etc. I am supported in my finding by the guidance given in *James Duncan Abbott v Alpes Marques O/693/19* in which Ms Emma Himsworth QC, sitting

as the Appointed Person, referring to the earlier cases of *Balmoral*<sup>1</sup> and *Caledonian*<sup>2</sup>,

“it seems to me that the Hearing Officer erred in finding that there was no similarity between whiskies and beer for the purposes of his assessment under section 5(2)(b) of the 1994 Act. In my view the hearing officer could and should have found that the goods at issue were similar but only to a low degree.”

16. Alternatively, with regard to the opponent’s *other non-alcoholic beverages*, I find this term will cover non-alcoholic versions of alcoholic beverages such as wine for example. Therefore, I find the opponent’s goods to be similar to the applicant’s goods to a low degree. As outlined above the goods may share the same producers, the same users and have some of the same distribution channels, i.e. they’ll be served in pubs, bars and restaurants and will be found together in the same section of a retail premises. Non-alcoholic beverages may also be marketed as an alternative to their alcoholic equivalent.

### **Average consumer and the purchasing act**

17. I next consider who the average consumer is for the contested goods and the way in which those goods are purchased. The average consumer is deemed to be reasonably well informed and reasonably observant and circumspect. For the purpose of assessing the likelihood of confusion, it must be borne in mind that the average consumer’s level of attention is likely to vary according to the category of goods or services in question: *Lloyd Schuhfabrik Meyer, Case C-342/97*.

18. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

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<sup>1</sup> BALMORAL TM [1999] RPC 297

<sup>2</sup> C & C IP SARL v Russell Sharp O/382/16

“60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

19. The average consumers of the contested goods are those who are over the age of 18. The goods will be available through several trade channels. These include pubs, bars, clubs and restaurants as well as retail outlets such as supermarkets or off-licences. In *Simonds Farsons Cisk plc v OHIM* Case T-3/04 the General Court ('GC') said:

“58 In that respect, as OHIM quite rightly observes, it must be noted that, even if bars and restaurants are not negligible distribution channels for the applicant's goods, the bottles are generally displayed on shelves behind the counter in such a way that consumers are also able to inspect them visually. That is why, even if it is possible that the goods in question may also be sold by ordering them orally, that method cannot be regarded as their usual marketing channel. In addition, even though consumers can order a beverage without having examined those shelves in advance they are, in any event, in a position to make a visual inspection of the bottle which is served to them.

59 Moreover, and above all, it is not disputed that bars and restaurants are not the only sales channels for the goods concerned. They are also sold in supermarkets or other retail outlets (see paragraph 14 of the contested decision), and clearly when purchases are made there, consumers can perceive the marks visually since the drinks are presented on shelves, although they may not find those marks side by side.”

20. The purchase is therefore primarily a visual experience, but I still bear in mind the aural component of ordering a beverage. The price of the contested goods will vary but in general I consider them to be an inexpensive and reasonably frequent

purchase. A consumer would probably consider factors such as the type, flavour and alcoholic strength of the beverage when making their selection. I find that at least a medium level of attention would be paid in this situation.

### Comparison of the marks

21. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the marks must be assessed by reference to the overall impressions created by the marks, bearing in mind their distinctive and dominant components. The CJEU stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

“.....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

22. It would be wrong, therefore, to artificially dissect the trade marks, although, it is necessary to take into account the distinctive and dominant components of the marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks.

23. As the marks in each of the opponent’s earlier registrations are identical, I shall depict the mark once for ease of reference. The marks to be compared are:

Opponent’s mark	Applicant’s mark
	KARMA

24. The opponent's mark is a composite arrangement consisting of a figurative element, being a pair of eyes, placed above the word KARMA which in turn is placed above the word KOMBUCHA. The words are presented in different typefaces; the word KARMA in a standard typeface and the word KOMBUCHA in a stylised typeface. I note that kombucha is a type of fermented tea-based beverage which has non-alcoholic or alcoholic variants depending on the fermentation process and can be flavoured with additional ingredients. As such I find that the KOMBUCHA word element of the mark is descriptive for some of the opponent's goods in class 32. Although the figurative element makes a visual impact, there is a rule of thumb that words speak louder than devices and I consider that to be the case here. I find that due to its larger size and prominent position, the distinctive and dominant element of the opponent's mark is the word KARMA. Even though the word KOMBUCHA is descriptive of only some of the opponent's goods and therefore distinctive for other goods, I find that due to its smaller size and its subordinate position underneath the word KARMA, the word KOMBUCHA should be considered of secondary importance and carries less weight in the overall impression of the mark.

25. The applicant's mark consists of the word KARMA. There are no other aspects to the mark and the overall impression is derived solely from the word.

26. In a visual comparison the marks share the word KARMA. It is the entirety of the applicant's mark. The opponent's mark has the figurative eyes element and the additional word KOMBUCHA as points of visual difference. Taking this into account, I find there is a medium degree of visual similarity.

27. In an aural comparison, the figurative element will play not a part. Of the remaining elements, the shared word KARMA will be pronounced identically in each case. Some average consumers may additionally pronounce the KOMBUCHA word element of the opponent's mark, but some consumers may not. Taking this into account I find the marks to be aurally identical where KOMBUCHA is not pronounced and highly similar if it is.

28. Finally with regard to the conceptual comparison, the opponents supplied a dictionary definition in its evidence<sup>3</sup> and submits<sup>4</sup> that the relevant public will understand KARMA to mean,

“(in Buddhist and Hindu religions) the force produced by a person’s action in one life which influences what happens to them in future lives”.

It is not a certain assumption that the average consumer will know this meaning. Some will know the meaning, and some will not. If the meaning is known, then the concept is identical. If the meaning is not known, then the consumer may perceive it as an invented word in which case the concept is neutral.

29. As previously stated, the word KOMBUCHA is descriptive of a type of fermented tea-based beverage and this will be known to some consumers. However other consumers will regard the word as an invented one and have no concept for it. With regard to the device element, the opponent submits that the eyes are “suggestive of depictions of the Buddha’s eyes”<sup>5</sup> which would reinforce the KARMA element. I do not share the view that the average consumer will make such a connection. For most consumers the device will simply be regarded as a pair of eyes.

30. Taking all the factors set out above into account I find there is conceptual similarity to a high degree if consumers know the meaning of KARMA and KOMBUCHA, even allowing that the eye device does introduce some conceptual difference. I find the same will apply if consumers are familiar with KARMA and not KOMBUCHA. If consumer do not know the meaning of either word then the KARMA concept is neutral and KOMBUCHA and the eye device add some conceptual difference.

### **Distinctive character of the earlier marks**

31. The distinctive character of the earlier marks must be considered. The more distinctive they are, either inherently or through use, the greater the likelihood of

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<sup>3</sup> Exhibit ST24 – extract taken from the Cambridge English Dictionary

<sup>4</sup> Written submissions dated 19 September 2019, page 8.

<sup>5</sup> Ibid.

confusion (*Sabel BV v Puma AG*). In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97 the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

32. I also find the guidance given in *Kurt Geiger*<sup>6</sup> to be helpful where Mr Iain Purvis Q.C. sitting as the Appointed Person pointed out that the level of ‘distinctive character’ is only likely to increase the likelihood of confusion to the extent that it resides in the element of the marks that are identical or similar. He said:

“38. The Hearing Officer cited *Sabel v Puma* at paragraph 50 of her decision for the proposition that ‘the more distinctive it is, either by inherent nature or by use, the greater the likelihood of confusion’. This is indeed what was said

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<sup>6</sup> *Kurt Geiger v A-List Corporate Limited*, BL O-075-13

in *Sabel*. However, it is a far from complete statement which can lead to error if applied simplistically.

39. It is always important to bear in mind what it is about the earlier mark which gives it distinctive character. In particular, if distinctiveness is provided by an aspect of the mark which has no counterpart in the mark alleged to be confusingly similar, then the distinctiveness will not increase the likelihood of confusion at all. If anything it will reduce it.”

33. In other words, simply considering the level of distinctive character possessed by the earlier mark is not enough. It is important to ask ‘in what does the distinctive character of the earlier mark lie?’ Only after that has been done can a proper assessment of the likelihood of confusion be carried out.

34. There is no evidence of enhanced distinctiveness before me, so I have only the inherent distinctiveness to consider. I have previously found that the word KARMA is the dominant and distinctive element in the earlier marks. It does not allude to or describe the goods. In my view it is this element which gives the earlier marks their high level of inherent distinctiveness.

### **Likelihood of confusion**

35. There is no scientific formula to apply in determining whether there is a likelihood of confusion. It is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and services and vice versa. It is necessary for me to keep in mind the distinctive character of the opponent’s mark, the average consumer and the nature of the purchasing process for the contested goods. In doing so, I must be aware that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them that he has retained in his mind.

36. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the

average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods and services down to the responsible undertakings being the same or related.

37. In *L.A. Sugar Limited v By Back Beat Inc*, Case BL O/375/10, Mr Iain Purvis Q.C., as the Appointed Person, explained that:

“16. Although direct confusion and indirect confusion both involve mistakes on the part of the consumer, it is important to remember that these mistakes are very different in nature. Direct confusion involves no process of reasoning – it is a simple matter of mistaking one mark for another. Indirect confusion, on the other hand, only arises where the consumer has actually recognized that the later mark is different from the earlier mark. It therefore requires a mental process of some kind on the part of the consumer when he or she sees the later mark, which may be conscious or subconscious but, analysed in formal terms, is something along the following lines: “The later mark is different from the earlier mark, but also has something in common with it. Taking account of the common element in the context of the later mark as a whole, I conclude that it is another brand of the owner of the earlier mark.

38. In *Whyte and Mackay Ltd v Origin Wine UK Ltd and Another* [2015] EWHC 1271 (Ch), Arnold J. considered the impact of the CJEU’s judgment in *Bimbo*, Case C-591/12P, on the court’s earlier judgment in *Medion v Thomson*. The judge said:

“18 The judgment in *Bimbo* confirms that the principle established in *Medion v Thomson* is not confined to the situation where the composite trade mark for which registration is sought contains an element which is identical to an earlier trade mark, but extends to the situation where the composite mark contains an element which is similar to the earlier mark. More importantly for present purposes, it also confirms three other points.

19 The first is that the assessment of likelihood of confusion must be made by considering and comparing the respective marks — visually, aurally and conceptually — as a whole. In *Medion v Thomson* and subsequent case law,

the Court of Justice has recognised that there are situations in which the average consumer, while perceiving a composite mark as a whole, will also perceive that it consists of two (or more) signs one (or more) of which has a distinctive significance which is independent of the significance of the whole, and thus may be confused as a result of the identity or similarity of that sign to the earlier mark.

20 The second point is that this principle can only apply in circumstances where the average consumer would perceive the relevant part of the composite mark to have distinctive significance independently of the whole. It does not apply where the average consumer would perceive the composite mark as a unit having a different meaning to the meanings of the separate components. That includes the situation where the meaning of one of the components is qualified by another component, as with a surname and a first name (e.g. BECKER and BARBARA BECKER).

21 The third point is that, even where an element of the composite mark which is identical or similar to the earlier trade mark has an independent distinctive role, it does not automatically follow that there is a likelihood of confusion. It remains necessary for the competent authority to carry out a global assessment taking into account all relevant factors.”

39. During this decision I have found that the parties' goods are similar to a low degree and that the average consumers will purchase these goods by visual means although I do not rule out an aural component if beverages are ordered in a bar or restaurant etc. Consumers will also be paying at least a medium degree of attention. I also found that the opponent's earlier marks are distinctive to a high degree. Additionally, I found there was a medium degree of visual similarity between the earlier mark and the applicant's mark. I found there to be aural identity for the word element KARMA if only that element was pronounced and a high degree of aural similarity if the additional word KOMBUCHA was pronounced. Finally, I found there was conceptual similarity to a high degree if the meaning of the words is known and conceptual neutrality if they are not.

40. The marks all contain the common word KARMA. It is the dominant and distinctive element of the opponent's marks. Even if the word KOMBUCHA is not descriptive in relation to some of the opponent's goods, namely *beer*, which I found to be similar to the applicant's goods, KARMA remains the more significant element of the earlier marks.

41. As per the *Whyte and Mackay* case extract outlined above, I do not find that KARMA and KOMBUCHA form a unit, having a different meaning to its separate components but do find that the average consumer will perceive KARMA as significantly independent of the whole. I find this to be the same situation if KOMBUCHA is seen as a descriptor of a type of beverage or it is seen as an invented word as I previously found it to carry less weight within the mark.

42. I do not think consumer will directly confuse the marks but I consider there will be indirect confusion. Taking on the guidance in *L.A.Sugar*, the common element KARMA is highly distinctive, and an average consumer will likely see the applicant's mark as a plausible brand extension, such as an alcoholic version of the goods offered under the earlier marks and would believe that the marks are connected to the same economic undertaking. On that basis I find there is a likelihood of indirect confusion.

### **Conclusion**

43. The opposition succeeds in full. Subject to any appeal against this decision, the application will be refused.

### **Costs**

44. The opponent has been successful and is entitled to a contribution to its costs. Awards of costs are governed by Annex A of Tribunal Practice Notice (TPN) 2/2016. Bearing in mind the guidance given in TPN 2/2016, I award costs to the opponent as set out below. I am disinclined to award costs for the evidence provided, as it did not assist me in my decision making.

£100 Official fee

£400 Preparing a statement and considering the other side's statement

£400 Preparing written submissions

**£900 Total**

45. I order Fruitfina Limited to pay Biogroupe the sum of £900. This sum is to be paid within 21 days of the expiry of the appeal period or within 21 days of the final determination of this case if any appeal against this decision is unsuccessful.

**Dated this 11th day of September 2020**

**June Ralph**

**For the Registrar**

**The Comptroller-General**